

# HOUSE . . . . . No. 833

By Ms. St. Fleur of Boston (by request), petition of Joseph Ureneck relative to the prevention of abuse of family and household members. The Judiciary.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO ABUSE PREVENTION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 6B of chapter 208 of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 inserting after the word “any”, in line 10, the following:—  
4 a listing of any abuse protection orders issued on either party,  
5 including date, court of jurisdiction, nature of abuse claimed, and  
6 relief granted by the court for the plaintiff.

1 SECTION 2. Section 46 of said chapter 208, as so appearing, is  
2 hereby amended by inserting after the word “granted”, in line 4,  
3 the following:—  
4 a listing of any abuse protection orders issued on either party,  
5 including date, court of jurisdiction, nature of abuse claimed, and  
6 relief granted by the court for the plaintiff, an accounting of any  
7 attorneys fees awarded,

1 SECTION 3. Section 1 of chapter 209A of the General Laws,  
2 as so appearing, is hereby amended by striking out paragraph (b),  
3 in line 6, in the definition of “abuse” and inserting in place thereof  
4 the following paragraph:—  
5 (b) threatening another with imminent serious physical harm.

1 SECTION 4. Section 3 of said chapter 209A, as so appearing,  
2 is hereby amended by striking paragraph (h), beginning in line 88,  
3 and inserting in place thereof the following paragraph:—

4 (h) ordering the defendant to refrain from abusing the plain-  
5 tiff's child, or child in plaintiff's care or custody;

1 SECTION 5. Said section 3 of said chapter 209A, as so  
2 appearing, is hereby further amended by striking out the words  
3 "or to enter a permanent order", in line 105.

1 SECTION 6. Said section 3 of said chapter 209A, as so  
2 appearing, is hereby further amended by striking out the words  
3 "The fact that abuse has not occurred during the pendency of an  
4 order shall not, in itself, constitute sufficient ground for denying  
5 or failing to extend the order, of allowing an order to expire or be  
6 vacated, or for refusing to issue a new order", in lines 113 to 116,  
7 inclusive.

1 SECTION 7. Section 4 of said chapter 209A, as so appearing,  
2 is hereby amended by adding at the end the following two para-  
3 graphs:—

4 If, at the ten-day hearing after the issuance of a temporary  
5 order, the defendant demonstrates by sufficient facts to the court  
6 that the plaintiff made misrepresentations about material facts  
7 either at the hearing or in the affidavit supporting the complaint in  
8 order to obtain the emergency order, the court shall vacate the  
9 temporary order, shall make a finding of fraud upon the court,  
10 shall sanction the plaintiff an amount deemed just and fair by the  
11 court and the statutory costs of this action, and within ten days of  
12 the court so finding, shall hold a hearing on the damages, if any,  
13 caused to the defendant. Under this section, the defendant may be  
14 awarded actual and punitive damages, reasonable attorney's fees,  
15 and costs, including the costs of licensed private investigators.

16 Upon timely written request of the court by the plaintiff or  
17 defendant, at hearing within ten court business days, or at any  
18 hearing to extend a restraining order issued under this chapter or  
19 Chapter two hundred and eight, such hearing shall be evidentiary  
20 and conducted in comportment with the Civil Rules of Evidence.

1 SECTION 8. Section 6 of said chapter 209A, as so appearing,  
2 is hereby amended by striking out the words “arrest shall be the  
3 preferred response whenever an officer witnesses or has probable  
4 cause to believe that a person”, in lines 71 and 72, and inserting in  
5 place thereof the following:—

6 an officer may arrest any person that they witness or have prob-  
7 able cause to believe

1 SECTION 9. Section 7 of said chapter 209A, as so appearing,  
2 is hereby amended by striking out the words “or the plaintiff’s  
3 minor child”, in line 23.

1 SECTION 10. Said section 7 of said chapter 209A, as so  
2 appearing, is hereby further amended by striking out the words  
3 “Any violation”, in line 42, and inserting in place thereof the  
4 following:—

5 Any intentional violation of the no-contact provisions or any  
6 violation of any other provisions.

1 SECTION 11. The fifth paragraph of said section 7 of said  
2 chapter 209A, as so appearing, is hereby amended by striking out  
3 the last sentence, beginning in line 56 and ending in line 65.

1 SECTION 12. Said section 7 of said chapter 209A, as so  
2 appearing, is hereby further amended by striking out the words “a  
3 violation”, in line 83, and inserting in place thereof the  
4 following:—

5 an intentional violation of the no-contact provisions or any vio-  
6 lation of any other provisions.

1 SECTION 13. Section 9 of said chapter 209A, as so appearing,  
2 is hereby amended by adding the following sentence:—

3 The complaint shall be signed by the plaintiff under the pains  
4 and penalties of perjury.